

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

DEC 12 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

AMANDEEP SINGH BOPARAI,

Petitioner,

v.

ALBERTO R. GONZALES,* Attorney
General,

Respondent.

No. 04-72947

Agency No. A79-192-216

MEMORANDUM**

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 5, 2005***

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

Amandeep Singh Boparai, a native and citizen of India, petitions for review of the Board of Immigration Appeals' ("BIA") affirmance of an

* Alberto Gonzales is substituted for his predecessor, John Ashcroft, as Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

** This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

*** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Immigration Judge's ("IJ") denial of his application for asylum and withholding of removal and relief under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *INS v. Elias-Zacarias*, 502 U.S. 478, 481 (1992), and we deny the petition.

Substantial evidence supports the IJ's and BIA's determination that petitioner failed to qualify for withholding of removal. Because petitioner was never physically harmed in India, his parents safely reside in India, and his brother safely attends medical school in India, petitioner fails to show a clear probability that he will be persecuted in India because his father is a police officer. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1184-85 (9th Cir. 2003).

Petitioner waives his asylum claim for failure to raise the claim in his opening brief. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996).

In addition, petitioner's CAT claim fails because he did not demonstrate that it was more likely than not that he would be tortured if he returned to India. *See Kamalthas v. INS*, 251 F.3d 1279, 1283 (9th Cir. 2001).

The voluntary departure period was stayed, and that stay will expire upon issuance of the mandate. *See Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004).

PETITION FOR REVIEW DENIED.